HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. No. 274/06 (S/S)

Mahesh Chandra.

vs

State of Uttaranchal

Approved for reporting

_____

~~Not approved for reporting~~

Date of decision 4.3.2006

Initial of Judge

HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No.274 of 2006 (SS)

Mahesh Chandra Dhyani s/o Sri Gokulanand
R/o Village Dhiswani, Block Biraunkhal
District Pauri Garhwal ..... Petitioner

Versus

1. State of Uttaranchal
2. Block Education Officer, Block Biraunkhal at Syunsi, District Pauri Grhwal
3. Additional District Education Officer (Basic) Pauri Garhwal ..... Respondents

Sri H.M. Raturi, Advocate for the petitioner
Standing counsel the respondents.

Dated: 4.3.2006

Hon'ble Rajesh Tandon J.

Heard Sri H.M. Raturi, counsel for the petitioner and the standing counsel for the respondents. Both the parties have agreed that the case be finally disposed of at the admission stage.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the subsequent advertisement dated 22.2.2006 so far as it relates to village Dhiswani, District Pauri Garhwal and further to issue a writ of mandamus directing the respondents to appoint the petitioner as Shiksha

Mitra in Primary School, Dhiswani, Block Biraunkhal, District Pauri Garhwal.

Briefly stated in pursuance of the scheme known as Sarva Shiksha Abhiyan, the Additional District Education Officer (Basic) Pauri Garhwal issued an advertisement on 26.11.2005 in the daily news paper 'Amar Ujala' inviting applications for the appointment of Shiksha Mitara in District Pauri Garhwal. According to the case of the petitioner he belongs to village Dhiswani and he is graduate. He applied for the post of Shiksha Mitra in Primary School, Dhiswani. The Village Education Committee passed resolution on 6.12.2005 and forwarded the application of the petitioner along with applications of other candidates to the Block Education Officer, Block Biraunkhal.

The grievance of the petitioner is that his name is also found place in the list of candidates submitted by the Village Education Committee but the Block Education Officer without considering the recommendations of the Village Education Committee published advertisement in Daily News Paper 'Amar Ujala' on 20.2.2006 and further invited application for the post of Siksha Mitra on Block level.

The petitioner has further alleged that Government Order dated 16.1.2004 clearly shows that in case graduate candidate is not available at Village level, in that circumstance only candidates from Block level shall be taken into consideration.

The petitioner has filed copy of resolution passed by the Village Education Committee on 6.12.2005, annexure-1 to the writ petition. The Village Education Committee also forwarded the names and applications of ten graduate candidates of the village Panchayat in the prescribed Form I. the resolution passed by the Village Education Committee shows that they

recommended that preference be given to Sri Subhash Chandra, Mahesh Chandra, Ramesh Chandra, Km. Indu, Lalit Mohan and Madan Singh Rawat. Thus it is evidently clear that graduate candidates were available in the Village and as such the Block Education Officer is not justified by inviting applications from the Block level for fill up the vacancy of Shiksha Mitra in village Dhiswani.

The counsel for the petitioner has submitted that on 6.12.2005 the Village Pradhan was not available in the village so the meeting of Village Shiksha Samiti was presided over by the senior member of the Samiiti and all other members including the Head Master of the School have signed the resolution. The resolution passed by the Village Education Committee dated 6.12.2005 and applications of the candidates were sent to the Block Education Officer by the Head Master of Primary School, Dhiswani. The counsel for the petitioner has alleged that the Block Education Officer with some ulterior motive decided to select the candidates from Block level while the candidates were available at village level.

In view of above, a writ of certiorari is issued quashing the advertisement dated 20.2.2006, so far as it relates to Primary School, Dhiswani only. Respondent no. 2 Block Education Officer, Syunsi, Block Biraunkhal, District Pauri Garhwal is directed to make appointment on the post of Shiksha Mitra at village Dhiswani on the basis of the recommendation made by the Village Education Committee, Dhiswani amongst the eligible candidates of the village, within one month after the receipt of certified copy of this order.

Respondent No. 3, Additional District Education Officer (Basic) Pauri Garhwal is directed to supervise the action taken

by the Block Education Officer and to ensure compliance of the order.

Accordingly, writ petition is allowed. No order as to costs. Copy is expedite today.

(Rajesh Tandon J.

Dated: 4.3.2006